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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/211,507 12/14/98 HIRSCH

A 054012-0009

022202 HM12/0918  
WHYTE HIRSCHBOECK DUDEK S C  
111 EAST WISCONSIN AVENUE  
SUITE 2100  
MILWAUKEE WI 53202

EXAMINER

TATE, C

ART UNIT

PAPER NUMBER

1651

DATE MAILED:

09/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/211,507

Applicant(s)

Hirsch

Examiner

Christopher Tate

Art Unit

1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jul 6, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-11, 24-32, 34, 35, and 38-47 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1, 2, 4-11, 24-32, 34, 35, and 38-47 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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### **DETAILED ACTION**

Based upon the large number of independent claims presented in the amendment filed July 6, 2001 (Paper No. 19), an additional restriction requirement is deemed necessary, as discussed below.

#### ***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 2, 4-11, 35, 38-45, drawn to a method of altering blood flow to the vagina by administering to a female individual an odorant by inhalation, classified in class 424, subclass 434, for example.
- II. Claims 24, 26-32, and 34, drawn to a method of altering blood flow to the vagina via determining a level of sexual arousal of the female individual by manual genital manipulation, to masturbation, or both; then administering to the female individual an odorant by inhalation, classified in class 424, subclass 725, for example.
- III. Claim 25, drawn to a method of altering blood flow to the vagina of a female individual via measuring a baseline blood flow to the vagina of the female individual; then administering to the female individual an odorant by inhalation classified in class 424, subclass 758, for example.
- IV. Claim 46, drawn to a method of increasing blood flow to the vagina of a female individual via administering a floral-aldehydic perfume odorant to the female individual by inhalation, classified in class 514, subclass 929, for example.

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- V. Claim 47, drawn to a method of decreasing blood flow to the vagina of a female individual via administering a floral-aldehydic perfume odorant to the female individual by inhalation, classified in class 514, subclass 693, for example.

The methods of Groups I-V are directed to distinct inventions which, as clearly evidenced by the claims and disclosure, do not necessarily require the same odorant be employed and/or all of the steps recited by the other Groups. For example, the method of Group I only requires a single step: the inhalation of an undefined amount of an odorant (such as the odorants recited in claim 1 - which do not include a floral aldehydic perfume odorant, but which is required of the methods of Groups IV and V) that alters vaginal blood flow by a female individual. The method of Group II requires the step of determining a level of sexual arousal of the female individual to manual genital manipulation, to masturbation, or both - which is not required of the other Groups. The method of Group III requires the step of measuring a baseline blood flow to the vagina of the female individual - which is not required of the other Groups. The method of Group IV requires that a floral aldehydic perfume odorant be inhaled and that it increase blood flow to the vagina and the method of Group V requires that a floral aldehydic perfume odorant be inhaled and that it decrease blood flow to the vagina, which are not necessarily required of Groups I-III. The methods of Groups IV and V, as clearly evidenced by the claims themselves, are independent and distinct, each from the other, since they have different modes of operation, they have different functions, and they have different (and opposite) effects. The search for each of the above inventions is not co-extensive particularly with regard to the literature search.

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Applicant is advised that the response to this requirement, to be complete, must include an election of the invention to be examined even though the requirement be traversed (with respect to patentability over the art, it is suggested that the two-step method of Group II or Group III be elected).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Tate whose telephone number is (703) 305-7114. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached at (703) 308-4743. The Group receptionist may be reached at (703) 308-0196. The fax number for art unit 1651 is (703) 308-4242.



Christopher R. Tate  
Primary Examiner, Group 1651